

Message Text

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ACTION STR-05

INFO OCT-01 ISO-00 STRE-00 AF-10 ARA-10 EA-10 EUR-12

NEA-10 IO-13 OIC-02 AGRE-00 CEA-01 CIAE-00

COME-00 DODE-00 EB-08 FRB-03 H-01 INR-07 INT-05

L-03 LAB-04 NSAE-00 PA-01 AID-05 SS-15 ITC-01

TRSE-00 PRS-01 SP-02 FEAE-00 OMB-01 NSCE-00

SSO-00 USIE-00 INRE-00 /131 W

-----024965 091939Z /45 ,

O 091726Z NOV 77

FM USMISSION GENEVA

TO SECSTATE WASHDC IMMEDIATE 2888

AMEMBASSY BRUSSELS

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USMTN

USEC

ACTION STR FOR AMBASSADOR WOLFF, GREENWALD, LANDE,
MATTHEISEN

E.O.11652: N/A

TAGS: ETRD, GATT, MTN

SUBJECT: GATT REFORM--DRAFT EC ENABLING CLAUSE FOR S&D

REF: A) GENEVA 8836, B) STATE 257567, C) BRUSSELS 15220,

D) BRUSSELS 15540

1. WE PROPOSE TO SOUND OUT EC DELEGATION INFORMALLY
IN COURSE OF NEXT WEEK WHETHER EC INTENDS TO PROCEED
WITH ITS VERSION OF THE ENABLING CLAUSE IN FRAMEWORK
GROUP DESPITE VIGOROUS U.S. RESERVATIONS COMMUNICATED
IN BRUSSELS BOTH BY USEC AND BY AMBASSADOR MCDONALD.

IF EC OFFERS SOME AMENDMENTS OF ITS INITIAL VERSION,

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WE CAN OF COURSE TAKE IT UNDER ADVISEMENT AND BEGIN
TRYING TO NEGOTIATE A TEXT TO BRIDGE OUR DIFFERENCES
AS FAR AS POSSIBLE. EC DEL MAY, HOWEVER, TELL US IT
HAS REFLECTED ON OUR CONCERNS BUT NEVERTHELESS INTENDS
TO PROCEED WITH ITS ORIGINAL VERSION. UNDER EITHER
HYPOTHESIS, HOWEVER, WE SHOULD BE ARMED WITH TEXTUAL
CHANGES TO PUT TO THE EC SO AS TO MAKE IT "LESS

UNACCEPTABLE" TO US AND TO REDUCE SCOPE FOR A U.S.-EC
CONFRONTATION IN SEMI-PUBLIC FRAMEWORK GROUP.

2. MTN DEL HAS DRAWN UP POSSIBLE AMENDMENTS WHICH WE
BELIEVE TAKE THE WORST EDGES OFF THE EC DRAFT AND MEET
MOST U.S. REQUIREMENTS. WOULD APPRECIATE WASHINGTON
REACTION TO FOLLOWING TEXT ASAP. (NB: WE ARE NOT
SATISFIED WITH OUR SUGGESTED PARA 6 ON GRADUATION BUT
OFFER IT FOR CONSIDERATION; WE WOULD BE MOST APPRECIATIVE
OF ANY BETTER ALTERNATIVES WASHINGTON CAN DEVELOP.)

3. SPECIFIC CHANGES KEYED TO TEXT AS IT APPEARS IN
STATE 257567:

PARAGRAPH 1--REPLACE "ESTABLISHMENT OF" WITH
"EXTENSION TO DEVELOPING COUNTRIES OF GENERALIZED";
--AFTER "PROCEDURES" INSERT ", IN THE FORM OF MULTI-
LATERAL UNDERTAKINGS ARRIVED AT THROUGH MULTILATERAL
NEGOTIATIONS UNDER THE AUSPICES OF THE GATT,";
--REPLACE "DEVELOPING" IN FOURTH LINE WITH "THOSE";
--INDICATE FOOTNOTE AFTER WORD "TARIFF", FOOTNOTE TO
READ AS FOLLOWS: "THIS PROVISION SHALL NOT PERMIT
BINDING IN GATT OF PREFERENTIAL TARIFF RATES OR MARGINS."

PARAGRAPH 2--(A), REPLACE "SHOULD" WITH "SHALL";
--(B), REPLACE "SHOULD AIM" WITH "SHALL BE DESIGNED";
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PARAGRAPH 3--REPLACE "GIVE DIFFERENTIAL AND MORE
FAVORABLE TREATMENT AS INDICATED IN" WITH "TAKE ACTION
PURSUANT TO", AND REPLACE "TREATMENT" IN FOLLOWING LINE
WITH "ACTION";

NEW PARAGRAPH 4--"4. THE OPERATION OF MEASURES
TAKEN PURSUANT TO THESE PROVISIONS SHALL BE PERIODICALLY
REVIEWED BY THE CONTRACTING PARTIES; CURRENT INFORMATION
RELEVANT TO SUCH REVIEW SHALL BE FURNISHED BY THE PARTIES
WHICH HAVE TAKEN THE MEASURES, AND BY OTHER INTERESTED
PARTIES. THE CONTRACTING PARTIES MAY ACT PURSUANT TO
PARAGRAPH 3 IN THE LIGHT OF SUCH REVIEW."

OLD PARAGRAPH 4--RENUMBER AS PARAGRAPH 5, AND
AFTER "IF" INSERT "ANY CONTRACTING PARTY CONSIDERS THAT
A MEASURE TAKEN PURSUANT TO THESE PROVISIONS IS INCON-
SISTENT WITH THEM, OR IF"; CHANGE "ANY CONTRACTING PARTY"
IN FOLLOWING LINE TO "IT";
--REPLACE "MAY ENTER INTO" WITH "SHALL HAVE THE
OPPORTUNITY OF";
--AFTER "IT MAY" IN SEVENTH LINE, INSERT ", IN ACCORDANCE

WITH THE PROVISIONS OF ARTICLE XXIII OF THE GENERAL
AGREEMENT,".
NEW PARAGRAPH 6--ON GRADUATION AS SHOWN IN FULL TEXT
BELOW.

4. WITH THE ABOVE CHANGES INCORPORATED, AMENDED VERSION
READS IN FULL AS FOLLOWS:

QUOTE:

1. THE PRESENT AGREEMENT SHALL NOT PREVENT, SUBJECT
TO THE FOLLOWING PROVISIONS, THE EXTENSION TO DEVELOPING
COUNTRIES OF GENERALIZED MEASURES OR PROCEDURES, IN THE
FORM OF MULTILATERAL UNDERTAKINGS ARRIVED AT THROUGH
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MULTILATERAL NEGOTIATIONS UNDER THE AUSPICES OF THE GATT,
DESIGNED TO PROVIDE DIFFERENTIAL AND MORE FAVORABLE
TREATMENT TO THOSE COUNTRIES WITH RESPECT TO THE PRO-
VISIONS OF THE GENERAL AGREEMENT CONCERNING TARIFF (FOOT-
NOTE: THIS PARAGRAPH SHALL NOT PERMIT BINDING IN THE

GATT OF PREFERENTIAL TARIFF RATES AND MARGINS.) AND NONTARIFF MEASURES; PROVIDED THAT IN EACH CASE SUCH TREATMENT IS IN ORDER TO RESPOND TO THE PARTICULAR CIRCUMSTANCES AND THE DEVELOPMENT NEEDS OF DEVELOPING COUNTRIES AND TO THE EXTENT THAT INDIVIDUAL DEVELOPMENT NEEDS CONTINUE TO JUSTIFY SUCH TREATMENT.

2. THE CONTRACTING PARTIES RECOGNIZE THAT SUCH TREATMENT

(A) SHALL NOT PREVENT REDUCTION OF CUSTOMS DUTIES AND ELIMINATION OF OTHER RESTRICTIONS TO TRADE ON THE BASIS OF THE MOST-FAVORED-NATION CLAUSE;

(B) SHALL BE DESIGNED TO FACILITATE THE TRADE OF BENEFICIARY COUNTRIES AND NOT TO SET UP OBSTACLES TO THE TRADE OF OTHER CONTRACTING PARTIES.

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3. WITHOUT PREJUDICE TO OTHER RELEVANT PROVISIONS OF THE GENERAL AGREEMENT, ANY CONTRACTING PARTY WISHING TO TAKE ACTION PURSUANT TO PARAGRAPH 1 ABOVE, OR WISHING TO MODIFY SUCH ACTION SHALL PROMPTLY INFORM THE CONTRACTING PARTIES AND PROVIDE THEM WITH ALL INFORMATION REQUIRED SO AS TO PERMIT THEM, IF NECESSARY, TO MAKE ANY RECOMMENDATIONS THAT THEY MAY JUDGE APPROPRIATE WITH RESPECT TO THE PROVISIONS OF THE GENERAL AGREEMENT. THE CONTRACTING PARTIES CONCERNED SHALL ACT IN ACCORDANCE WITH ANY SUCH RECOMMENDATIONS.

4. THE OPERATION OF MEASURES TAKEN PURSUANT TO THESE PROVISIONS SHALL BE PERIODICALLY REVIEWED BY THE CONTRACTING PARTIES; CURRENT INFORMATION RELEVANT TO SUCH REVIEW SHALL BE FURNISHED BY THE PARTIES WHICH HAVE TAKEN THE MEASURES, AND BY OTHER INTERESTED PARTIES. THE CONTRACTING PARTIES MAY ACT PURSUANT TO PARAGRAPH 3 IN THE LIGHT OF SUCH REVIEW.

5. IF ANY CONTRACTING PARTY CONSIDERS THAT A MEASURE TAKEN PURSUANT TO THESE PROVISIONS IS INCONSISTENT WITH THEM, OR IF AS A RESULT OF THE APPLICATION OF SUCH DIFFERENTIAL TREATMENT, IT CONSIDERS THAT A BENEFIT ACCRUING TO IT UNDER THE GENERAL AGREEMENT MAY BE OR HAS BEEN UNDULY IMPAIRED, IT SHALL HAVE THE OPPORTUNITY OF CONSULTATION WITH THE COUNTRY OR COUNTRIES APPLYING SUCH MEASURES; AND, IF IT CONSIDERS THAT THESE CONSULTATIONS HAVE NOT BEEN SATISFACTORY, IT MAY, IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE XXIII OF THE GENERAL AGREEMENT, BRING THE MATTER BEFORE THE CONTRACTING PARTIES WHICH WILL EXAMINE IT WITHOUT DELAY AND WILL FORMULATE ANY RECOMMENDATIONS THAT THEY JUDGE APPROPRIATE.

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6. CONSISTENT WITH THE PROVISIONS OF PARAGRAPH 1, THE CONTRACTING PARTIES SHALL REVIEW PERIODICALLY (A) WHETHER MEASURES TAKEN UNDER THE FOREGOING PROVISIONS SHOULD CONTINUE TO BE APPLICABLE TO ALL COUNTRIES GENERALLY REGARDED AS DEVELOPING COUNTRIES AS OF THE DATE THOSE PROVISIONS ARE ADOPTED; (B) WHETHER THE INDIVIDUAL TRADE, DEVELOPMENT AND FINANCIAL NEEDS OF PARTICULAR COUNTRIES MAY BE SUCH AT THE TIME OF REVIEW AS TO JUSTIFY TERMINATION OF SOME OR ALL OF SUCH MEASURES AND/OR THE FULL ASSUMPTION BY THE CONTRACTING PARTY CONCERNED OF THE RIGHTS AND OBLIGATIONS OF OTHER DEVELOPED CONTRACTING PARTIES.

END QUOTE.

5. DRAFTED BY HARTZELL/CULBERT. CULBERT

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